IN THE HIGH COURT OF JUDICATURE AT BOMBAY
ORDINARY ORIGINAL CIVIL JURISDICTION

INCOME TAX REFERENCE NO. 308 OF 1995

The Commissioner of Income-Tax, Pune .. Applicant
V/s.
Shri Sushilkumar Agarwal, Pune .. Respondent

Mr. R.V. Desai, Sr. Advocate with Ms. S.V. Bharucha for the Applicant
None present for the Respondent

CORAM : S. RADHAKRISHNAN &
J.P. DEVADHAR, JJ.
DATED : 28.02.2005

P.C.:-

1. Heard the learned counsel for the Applicant. The questions of law referred to read as under:-

> "1. Whether on the facts and in the circumstances of the case, the Tribunal was justified in directing the Assessing Officer to find out the actual date of payment and allow the deduction, if made within the statutory period on account of the deductions disallowed u/s. 43-B?
>
> 2. Whether on the facts and in the circumstances of the case, the Tribunal was justified in interpretation and applying the provisions of sec. 43B in the manner it has done, even though Explanation 2 to sec. 43B was introduced by the Finance Act 1939 with retrospective effect from 1.4.1984?"

2. The learned counsel for the Applicant fairly states that the issue in the above is squarely covered by a judgment of the Supreme Court in **Allied Motors P. Ltd. v. CIT (1997) 224 ITR 677 (SC)** in favour of the assessee and against the Revenue. The question is accordingly answered in the affirmative, i.e. in favour of the assessee and against the Revenue.

(S. RADHAKRISHNAN, J.)

(J.P. DEVADHAR, J.)